HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.22729 of 2007

Dated: 29.10.2007

Between:
Maddali Syam Prasad through Power of
Attorney Holders-Sri Maddali Srinivasulu and
Maddali Baburao.

... Petitioner

AND

The Kavali Municipality, reptd., by its
Commissioner, Kavali, Nellore District.

... Respondent.

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.22729 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to declare the endorsement dated 5-10-2007 issued by the respondent as arbitrary and illegal and to set aside the same.

Heard Sri M.Venkata Narayana, learned counsel for the petitioner and Sri S.Nageswara Reddy, learned Standing Counsel for the respondent.

A perusal of the impugned endorsement, whereby the approval granted in favour of the petitioner for raising the structure was cancelled, shows that before canceling the permission granted in favour of the petitioner, no notice was given to him. Since approval of plan was given in favour of the petitioner earlier, principles of natural justice warrant that before canceling such an approval, it is incumbent upon the respondent to give a notice and opportunity to the petitioner to submit objections against the proposed action of cancellation. As the action of the respondent assailed in this Writ Petition is in violation of the said principle, the impugned endorsement is set aside. However, the respondent is given liberty to give a notice and opportunity to the petitioner against the proposed cancellation before passing a fresh order. The petitioner shall treat the impugned endorsement as a notice and file his objections within two weeks from today and the respondent shall dispose of the same within two weeks thereafter. It is, however,

made clear that till a fresh decision is taken, the petitioner shall not raise any construction on the basis of the previous approval.

Subject to the above directions, the Writ Petition is disposed of.

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C.V.NAGARJUNA REDDY,J

mnr

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